

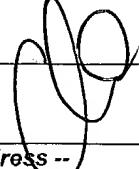


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,072	04/18/2001	Viktor Brost	655.00955	8832
7590	08/11/2004		EXAMINER	DUONG, THO V
WOOD, PHILLIPS, VanSANTEN, CLARK & MORTIMER Suite 3800 500 West Madison Street Chicago, IL 60661			ART UNIT	PAPER NUMBER
			3743	
			DATE MAILED: 08/11/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/837,072	BROST ET AL. 
	Examiner Tho v Duong	Art Unit 3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 November 2003 and 09 April 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
  - 4a) Of the above claim(s) 3-10 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2 and 11 is/are rejected.
- 7) Claim(s) 12-13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

Receipt of applicant's amendment filed 4/9/2004 is acknowledged. Claims 1-13 are pending. Claims 3-10 remain withdrawn from further consideration.

Upon entering the proper terminal disclaimer, the double patenting rejection against claims 1-2 and 11-13 have been withdrawn.

### *Response to Arguments*

Applicant's arguments filed 11/2003 have been fully considered but they are not persuasive. Applicant's argument that Jamison's tubes are not generally rectangular because of the side flanges, has been very carefully considered but is not deemed to be persuasive. One of ordinary skill in the art would see that the tube (20), which is shown in figures 1-4 in reference to Jamison, has a generally rectangular shape (emphasizes added) since the tube (20) has 4 sides that are about perpendicular to one another. The flanges (50,52) constitute a longer side of the tube. Furthermore, applicant argues that the collecting tank (26,72) of Jamison does not abut the end walls of a tube, rather it contact the thickness of the plates within the slot. In response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., tank abut the end walls) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant claims that the collecting tank is joined in a fluid tight manner to the end walls (claims 1 and 11) but not necessary in abut contact. Moreover, Jamison clearly discloses (figures 4, 5 and A as bellow) that the tank (72) contacts with the slots (84) of the end wall section (52) in a fluid tight manner so that no fluid escapes from the

connection between the tank and the tube. Therefore, the tank (72) is obviously joined in fluid tight manner with the end wall since the wall, which forms the slot, is the end wall section.

Though the applicant refers the elements (50,52) as a flanges in his argument, the examiner still considers to read the flanges (50,52) as the end walls since the examiner must interpret the claim as broadly as the terms reasonably allow.

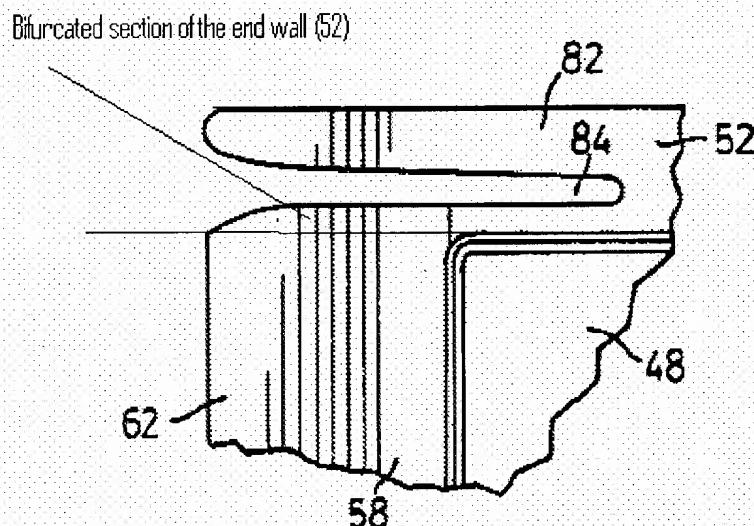


Figure A: The modified figure corresponds to figure 5 which shows the bifurcated section of end walls

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Jamison et al. (US 6,311,768). Jamison discloses (figures 1,7, 8 and figure A above) a radiator core comprising a radiator core (18) defining a front and a rear face thereof and including a plurality of generally rectangular shaped tubes (20) interleaved with layers of fins (22); a collecting tank (26,72) attached to the core in a fluid tight manner to provide fluid communication between the tube (20) and the collecting tank; the tubes each having a pair of side walls (48,62) extending through the core and joined by end walls (50,52) at the front and rear faces of the core. Jamison further discloses (figure 8) that the tubes (20) each terminating at one end thereof in a formed segment wherein the end walls (50,52) of each tube are bifurcated for a distance from one end of the tube and at least one of the side walls (62) is directed away from the other side wall to be adapted to contact a side wall of an adjacent tube in the core; the directed side wall (62) being joined in a fluid tight manner to the contacted side wall of the adjacent tube (by brazing). Jamison further discloses (figure 7) that each collecting tank (26) having walls (70,72) extending over the front and rear faces of the core past bifurcation of the end walls, which start at portion (58), and joined in a fluid tight manner to the end walls of the tubes at a portion (100) along and beyond the bifurcation.

***Allowable Subject Matter***

Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tho Duong whose telephone number is (703) 305-0768. The examiner can normally be reached on from 9:30-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

TD

TD

July 26, 2004



Tho Duong

Patent Examiner.